



VIA REGULAR U.S. MAIL
and E-mail: jellis@shumaker.com

July 2, 2024

Jonathan J. Ellis, Esquire
Shumaker Loop & Kendrick LLP
101 E Kennedy Blvd, Suite 2800
Tampa, Florida 33602-5150

Re: Our Client: Point Brittany Administrative Corporation, Inc.
Our Matter No.: 10493-001
Your Clients: Danielle and Timothy Jenkins, Kevin Conzone, and other owners
Response to Letter of Inquiry

Dear Mr. Ellis:

As you are aware, this firm represented Point Brittany Administrative Corporation, Inc. ("Association"), and this letter is sent in response to your letter of inquiry, received by the Association on May 13, 2024. The Association directed our office to respond, pursuant to Section 718.112(2)(a)2., Florida Statutes. Your inquiries are reproduced below.

1. Please identify all contracts for the last four (4) years that have been awarded to or performed by Don Youst and/or Excelaron Construction, Inc. ("Excelaron"), including, but not limited to, any contract related to the buildings located following addresses: 5003 Brittany Dr. S. St. Petersburg, FL, 5400 Leeland St. S. St. Petersburg, FL, 5055 Brittany Dr. S. St. Petersburg, FL, and 5101 Brittany Dr. S. St. Petersburg, FL (the "Commercial Buildings"); the pools located on the property managed by PBAC or the gazebo located near Pool 1. Please include the initial dollar value of each contract, whether each contract was put out for bid, and, if so, what entities bid on the project and the proposed amount of each bid.

All contracts awarded by the Association are available as official records of the Association and open for inspection. In January of 2024, the Association provided your client with contracts responsive to this inquiry in response to your clients' request for official records, in addition to bids received, change orders, meeting minutes, and communications regarding the same. The specific information requested can be gleaned from the official records provided.

2653 McCormick Drive
Clearwater, Florida 33759
(727) 475-5535
 Reply to this Address

WWW.RPGLAW.COM

8470 Enterprise Circle, Suite 309
Lakewood Ranch, Florida 34202
(941) 306-3964

***By Appointment Only

2. Please identify the final cost invoiced to PBAC, including the amount of any change orders, for any contract identified in Inquiry No. I.

The Association has advised that responsive invoices and change orders are part of the official records of the Association and were included with the documents previously provided in response to official records request in January 2024. Final costs and the amount of change orders may be tabulated from those documents.

3. Please explain the responsibilities of Don Youst for any contract identified in Inquiry No. I.

Don Youst is the founder of Excelaron, Inc., and was the qualifying licensee for the projects, for which he supervised as General Contractor.

4. Did the Association confirm that Excelaron was licensed, bonded and insured prior to accepting any bid or proposal from Excelaron? How was this verified and by whom?

The Association has advised that Excelaron provided proof of licensing and insurance when project bids were submitted. The projects did not contain bond requirements for contractors. The projects advertised by the Association required governmental permits. The Association relied upon the issuance of permits for the projects as evidence that the contractors met the licensing requirements necessary to obtain a permit.

5. Questions number 5 through 37 ask identical inquiries with respect to specific change orders to the contracts for the Gazebo and Pools 1–3, referenced by date, number, and additional cost included with the change order. Each inquiry asks for the identity of who approved the change order, the manner in which the approval was granted, and why the costs included in the change order were not included in the initial scope of work.

All change orders identified were provided to your client in January 2024 in response to their official records request. The change orders outline the changes to the scope of work and additional costs. In addition, the Association provided the relevant meeting minutes where change orders were discussed and approved. With respect to why the costs were not included in the initial scope of work, the Association has advised that the original estimates for the project were insufficient to meet the project demands. This underestimation, coupled with the delays and shortages caused by the COVID-19 pandemic, resulted in the need for change orders.

38. Please identify any change order approved for any contract identified in Inquiry No. I to specifically addressed herein. For each change order identified in response to this inquiry, please also identify who approved each change order and the manner in which the decision was made, why the change order was not included in the initial scope of work.

All change orders approved for the contracts described in Inquiry No. 1 were provided in January 2024 in response to the official records request. In addition, the Association provided meeting

minutes which contain the discussion and approval of the change orders. As previously stated, the change order was not included in the initial scope of work because the change order reflects project adjustments due to increased costs, delays, and required project modifications that were not apparent when the initial scope of work was prepared.

39. Did the Board consider the number of change orders included in prior contracts when assessing the propriety of awarding Excelaron additional contracts? If not, please explain why the Board determined that this was not a relevant inquiry.

The Association has advised that projects for which the Association contracted with Excelaron ran simultaneously, and this simultaneous project timetable prevented the Association from inferring any pattern or history of change orders with this vendor. Change orders were required due to previously unforeseen circumstances that arose during the project and/or necessary upgrades to the applicable code.

40. Please identify any contract identified in Inquiry No. 1, including all change orders, caused the total cost of the project to exceed five (5) percent of the total annual budget of PBAC or any Individual Condominium Association, including reserves? If so, was the project put out for a bid? If not, why not?

As previously stated, in January 2024 the Association provided official records regarding Excelaron contracts, including but not limited to contracts, bids, meeting minutes, communications, and invoices. In addition, in response to the same official records request, the Association provided annual budgets, financial records, and reserve studies of the Association.

41. To the extent not already identified herein, please identify any other project performed by Don Youst and/or Excelaron on any property within the Point Brittany community, including the scope of the project, the cost of the project, and the dates of the project.

As previously stated, the Association previously provided all official records regarding contracts, bids, notices, agenda, meeting minutes, communications, and other documents related to any project awarded to Excelaron. The scope of specific projects, the costs associated, and the dates of the project are contained within those records.

Sincerely,



Kelly Baker, Esquire
KAB/cm

cc: Colleen R. McNerney, Esquire (via email only: cmcinerney@shumaker.com)
Point Brittany Administrative Corporation, Inc. (via email only)